

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

8:05CR93

Plaintiff,

v.

**MEMORANDUM  
AND ORDER**

RUDOLPH GEORGE STANKO,

Defendant.

This matter is before the court on Defendant Rudolph George Stanko's ("Stanko") Objection. (Filing No. [423](#).) On April 19, 2010, Stanko filed a separate civil case, which the court liberally construed as a motion filed pursuant to [28 U.S.C. § 2255](#) because it challenged Stanko's conviction and sentence in this matter. (Case No. 8:10CV151, Filing No. [11](#).) Stanko now objects to the court's construction of his claims and requests that the court address his claims as he filed them, rather than under [28 U.S.C. § 2255](#). For good cause shown, the court will allow Stanko to proceed on his claims in the separate civil matter.

IT IS THEREFORE ORDERED that:

1. Stanko's Objection (filing no. [423](#); Case No. 8:10CV151, Filing No. [12](#)) is granted to the extent that the court will not treat Stanko's April 19, 2010, filing as a motion filed pursuant to [28 U.S.C. § 2255](#).

2. The Clerk of the court is directed to re-assign Case No. 8:10CV151 to the pro se docket. However, the case may remain assigned to the undersigned judge because it is related to this matter. The Clerk of the court is also directed to refer all motions in Case No. 8:10CV151 to the pro se docket.

3. The Clerk of the court is directed to file all pleadings previously filed in

Case No. 8:10CV151, filed as Filing No. [419](#) in this matter, in Case No. 8:10CV151. To the extent it remains pending, Filing No. [419](#) is therefore denied as moot.

DATED this 23<sup>rd</sup> day of September, 2010.

BY THE COURT:

s/ Joseph F. Bataillon  
Chief United States District Judge